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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JACYL D. TACANG,)	CASE NO.: 2:18-cv-01431-JCM-CWH
)	
Plaintiff,)	
)	
vs.)	
)	STIPULATED CONFIDENTIALITY
U.S. BANK HOME MORTGAGE,)	AND PROTECTIVE ORDER
)	
Defendant.)	
)	

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Confidentiality and Protective Order ("Stipulation & Order"). The parties acknowledge that this Stipulation & Order

1 does not confer blanket protections on all disclosures or responses to discovery and that the protection
2 it affords from public disclosure and use extends only to the limited information or items that are
3 entitled to confidential treatment under the applicable legal principles. The parties further
4 acknowledge, as set forth in Section 12.3, below, that this Stipulation & Order does not entitle them
5 to file confidential information under seal; Local Rule IA 10-5 sets forth the procedures that must be
6 followed and the standards that will be applied when a party seeks permission from court to file
7 material under seal.

8 **2. DEFINITIONS**

9 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
10 information or items under this Order.

11 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
12 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of
13 Civil Procedure 26(c).

14 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
15 as their support staff).

16 2.4 Designating Party: a Party or Non-Party that designates information or items that it
17 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

18 2.5 Disclosure or Discovery Material: all items or information, regardless of the medium
19 or manner in which it is generated, stored, or maintained (including, among other things, testimony,
20 transcripts, and tangible things), that are produced or generated in disclosures or responses to
21 discovery in this matter.

22 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to
23 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
24 consultant in this action.

25 2.7 House Counsel: attorneys who are employees of a party to this action. House
26 Counsel does not include Outside Counsel of Record or any other outside counsel.

27 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal
28 entity not named as a Party to this action.

1 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this action
2 but are retained to represent or advise a party to this action and have appeared in this action on
3 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

4 2.10 Party: any party to this action, including all of its officers, directors, employees,
5 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

6 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
7 Material in this action.

8 2.12 Professional Vendors: persons or entities that provide litigation support services
9 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
10 storing, or retrieving data in any form or medium) and their employees and subcontractors.

11 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
12 “CONFIDENTIAL.”

13 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
14 Producing Party.

15 **3. SCOPE**

16 The protections conferred by this Stipulation & Order cover not only Protected Material (as
17 defined above), but also (1) any information copied or extracted from Protected Material; (2) all
18 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
19 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
20 However, the protections conferred by this Stipulation & Order do not cover the following
21 information: (a) any information that is in the public domain at the time of disclosure to a Receiving
22 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of
23 publication not involving a violation of this Stipulation & Order, including becoming part of the
24 public record through trial or otherwise; and (b) any information known to the Receiving Party prior
25 to the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained
26 the information lawfully and under no obligation of confidentiality to the Designating Party. Any use
27 of Protected Material at trial shall be governed by a separate agreement or order.

1 **4. DURATION**

2 Even after final disposition of this litigation, the confidentiality obligations imposed by this
3 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
4 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
5 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion
6 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the
7 time limits for filing any motions or applications for extension of time pursuant to applicable law.

8 **5. DESIGNATING PROTECTED MATERIAL**

9 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
10 Non-Party that designates information or items for protection under this Stipulation & Order must
11 take care to limit any such designation to specific material that qualifies under the appropriate
12 standards. The Designating Party must designate for protection only those parts of material,
13 documents, items, or oral or written communications that qualify – so that other portions of the
14 material, documents, items, or communications for which protection is not warranted are not swept
15 unjustifiably within the ambit of this Stipulation & Order.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown
17 to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily
18 encumber or retard the case development process or to impose unnecessary expenses and burdens on
19 other parties) expose the Designating Party to sanctions.

20 If it comes to a Designating Party's attention that information or items that it designated for
21 protection do not qualify for protection, that Designating Party must promptly notify all other Parties
22 that it is withdrawing the mistaken designation.

23 5.2 Manner and Timing of Designations. Except as otherwise provided in this Stipulation
24 & Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
25 Disclosure or Discovery Material that qualifies for protection under this Stipulation & Order must be
26 clearly so designated before the material is disclosed or produced.

1 Designation in conformity with this Stipulation & Order requires:

2 (a) for information in documentary form (e.g., paper or electronic documents, but excluding
3 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the
4 legend "CONFIDENTIAL" to each page that contains protected material. If only a portion or
5 portions of the material on a page qualifies for protection, the Producing Party also must clearly
6 identify the protected portion(s) (e.g., by making appropriate markings in the margins).

7 A Party or Non-Party that makes original documents or materials available for inspection
8 need not designate them for protection until after the inspecting Party has indicated which material it
9 would like copied and produced. During the inspection and before the designation, all of the material
10 made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has
11 identified the documents it wants copied and produced, the Producing Party must determine which
12 documents, or portions thereof, qualify for protection under this Stipulation & Order. Then, before
13 producing the specified documents, the Producing Party must affix the "CONFIDENTIAL" legend
14 to each page that contains Protected Material. If only a portion or portions of the material on a page
15 qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
16 by making appropriate markings in the margins).

17 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
18 Designating Party identify on the record, before the close of the deposition, hearing, or other
19 proceeding, all protected testimony.

20 (c) for information produced in some form other than documentary and for any other
21 tangible items, that the Producing Party affix in a prominent place on the exterior of the container or
22 containers in which the information or item is stored the legend "CONFIDENTIAL." If only a
23 portion or portions of the information or item warrant protection, the Producing Party, to the extent
24 practicable, shall identify the protected portion(s).

25 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
26 designate qualified information or items does not, standing alone, waive the Designating Party's
27 right to secure protection under this Stipulation & Order for such material. Upon timely correction of
28

1 a designation, the Receiving Party must make reasonable efforts to assure that the material is treated
2 in accordance with the provisions of this Order.

3 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

4 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
5 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
6 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,
7 or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a
8 confidentiality designation by electing not to mount a challenge promptly after the original
9 designation is disclosed.

10 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
11 by providing written notice of each designation it is challenging and describing the basis for each
12 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
13 recite that the challenge to confidentiality is being made in accordance with this specific paragraph
14 of the Stipulation & Order. The parties shall attempt to resolve each challenge in good faith and must
15 begin the process by conferring directly (in voice to voice dialogue; other forms of communication
16 are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging
17 Party must explain the basis for its belief that the confidentiality designation was not proper and
18 must give the Designating Party an opportunity to review the designated material, to reconsider the
19 circumstances, and, if no change in designation is offered, to explain the basis for the chosen
20 designation. A Challenging Party may proceed to the next stage of the challenge process only if it
21 has engaged in this meet and confer process first or establishes that the Designating Party is
22 unwilling to participate in the meet and confer process in a timely manner.

23 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
24 intervention, the Designating Party shall file and serve a motion to retain confidentiality under Local
25 Rules 7-2, 7-3 (and in compliance with Local Rule IA 10-5, if applicable) within 21 days of the
26 initial notice of challenge or within 14 days of the parties agreeing that the meet and confer process
27 will not resolve their dispute, whichever is earlier. Each such motion must be accompanied by a
28 competent declaration affirming that the movant has complied with the meet and confer

1 requirements imposed in the preceding paragraph. Failure by the Designating Party to make such a
2 motion including the required declaration within 21 days (or 14 days, if applicable) shall
3 automatically waive the confidentiality designation for each challenged designation. In addition, the
4 Challenging Party may file a motion challenging a confidentiality designation at any time if there is
5 good cause for doing so, including a challenge to the designation of a deposition transcript or any
6 portions thereof. Any motion brought pursuant to this provision must be accompanied by a
7 competent declaration affirming that the movant has complied with the meet and confer
8 requirements imposed by the preceding paragraph.

9 The burden of persuasion in any such challenge proceeding shall be on the Designating
10 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
11 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.
12 Unless the Designating Party has waived the confidentiality designation by failing to file a motion to
13 retain confidentiality as described above, all parties shall continue to afford the material in question
14 the level of protection to which it is entitled under the Producing Party's designation until the court
15 rules on the challenge.

16 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

17 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
18 produced by another Party or by a Non-Party in connection with this case only (or against a recipient
19 of a document containing the information) for prosecuting, defending, or attempting to settle such
20 litigation. Such Protected Material may be disclosed only to the categories of persons and under the
21 conditions described in this Stipulation & Order. When the litigation has been terminated, a
22 Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

23 Protected Material must be stored and maintained by a Receiving Party at a location and in a
24 secure manner that ensures that access is limited to the persons authorized under this Order.

25 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by
26 the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
27 information or item designated "CONFIDENTIAL" only to:
28

1 (a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of
2 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for
3 this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" that is
4 attached hereto as Exhibit A;

5 (b) the officers, directors, and employees (including House Counsel) of the Receiving Party
6 to whom disclosure is reasonably necessary for this litigation and who have signed the
7 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

8 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
9 reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement
10 to Be Bound" (Exhibit A);

11 (d) the court and its personnel;

12 (e) court reporters and their staff, professional jury or trial consultants, mock jurors, and
13 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
14 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

15 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
16 necessary and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A),
17 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed
18 deposition testimony or exhibits to depositions that reveal Protected Material must be separately
19 bound by the court reporter and may not be disclosed to anyone except as permitted under this
20 Stipulated Confidentially and Protective Order.

21 (g) the author or recipient of a document containing the information or a custodian or other
22 person who otherwise possessed or knew the information.

23 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**
24 **LITIGATION**

25 If a Party is served with a subpoena, discovery requests or a court order issued in other
26 litigation that compels disclosure of any information or items designated in this action as
27 "CONFIDENTIAL," that Party must:
28

1 (a) promptly notify in writing the Designating Party. Such notification shall include a copy
2 of the subpoena, discovery requests, or court order;

3 (b) promptly notify in writing the party who caused the subpoena or order to issue in the
4 other litigation that some or all of the material covered by the subpoena or order is subject to this
5 Stipulation & Order. Such notification shall include a copy of the Stipulation & Order; and

6 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
7 Designating Party whose Protected Material may be affected.

8 If the Designating Party timely seeks a protective order, the Party served with the subpoena
9 or court order shall not produce any information designated in this action as “CONFIDENTIAL”
10 before a determination by the court from which the subpoena or order issued, unless the Party has
11 obtained the Designating Party’s permission or is a recipient of a document containing the
12 information or a custodian or other person who otherwise possessed or knew the information. The
13 Designating Party shall bear the burden and expense of seeking protection in that court of its
14 confidential material – and nothing in these provisions should be construed as authorizing or
15 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

16 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
17 **THIS LITIGATION**

18 (a) The terms of this Order are applicable to information produced by a Non-Party in this
19 action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in
20 connection with this litigation is protected by the remedies and relief provided by this Stipulation &
21 Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking
22 additional protections.

23 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-
24 Party’s confidential information in its possession, and the Party is subject to an agreement with the
25 Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

26 (1) promptly notify in writing the Requesting Party and the Non-Party that some or
27 all of the information requested is subject to a confidentiality agreement with a Non-Party;
28

1 (2) promptly provide the Non-Party with a copy of the Stipulation & Order in this
2 litigation, the relevant discovery request(s), and a reasonably specific description of the information
3 requested; and

4 (3) make the information requested available for inspection by the Non-Party.

5 (c) If the Non-Party fails to object or seek a protective order from this court within 14 days
6 of receiving the notice and accompanying information, the Receiving Party may produce the Non-
7 Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a
8 protective order, the Receiving Party shall not produce any information in its possession or control
9 that is subject to the confidentiality agreement with the Non-Party before a determination by the
10 court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of
11 seeking protection in this court of its Protected Material.

12 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

13 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
14 Material to any person or in any circumstance not authorized under this Stipulation & Order, the
15 Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized
16 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)
17 inform the person or persons to whom unauthorized disclosures were made of all the terms of this
18 Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to
19 Be Bound" that is attached hereto as Exhibit A.

20 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED** 21 **MATERIAL**

22 When a Producing Party gives notice to Receiving Parties that certain inadvertently produced
23 material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties
24 are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to
25 modify whatever procedure may be established in an e-discovery order that provides for production
26 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
27 parties reach an agreement on the effect of disclosure of a communication or information covered by
28

1 the attorney-client privilege or work product protection, the parties may incorporate their agreement
2 in the stipulated confidentiality and protective order submitted to the court.

3 **12. MISCELLANEOUS**

4 12.1 Right to Further Relief. Nothing in this Stipulation & Order abridges the right of any
5 person to seek its modification by the court in the future.

6 12.2 Right to Assert Other Objections. By stipulating to the entry of this Stipulation &
7 Order no Party waives any right it otherwise would have to object to disclosing or producing any
8 information or item on any ground not addressed in this Stipulation & Order. Similarly, no Party
9 waives any right to object on any ground to use in evidence of any of the material covered by this
10 Stipulation & Order.

11 12.3 Filing Protected Material. Without written permission from the Designating Party or a
12 court order secured after appropriate notice to all interested persons, a Party may not file in the
13 public record in this action any Protected Material. A Party that seeks to file under seal any Protected
14 Material must comply with Local Rule IA 10-5. Protected Material may only be filed under seal
15 pursuant to a court order authorizing the sealing of the specific Protected Material at issue.

16 **13. FINAL DISPOSITION**

17 Unless otherwise subject to Paragraph 8, within 60 days after the final disposition of this
18 action, as defined in paragraph 4, each Receiving Party must return all Protected Material to the
19 Producing Party or destroy such material. As used in this subdivision, "all Protected Material"
20 includes all copies, abstracts, compilations, summaries, and any other format reproducing or
21 capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the
22 Receiving Party must submit a written certification to the Producing Party (and, if not the same
23 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category,
24 where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the
25 Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format
26 reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are
27 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
28 transcripts, legal memoranda,

1 correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant
2 and expert work product, even if such materials contain Protected Material. Any such archival copies
3 that contain or constitute Protected Material remain subject to this Protective Order as set forth in
4 Section 4 (DURATION).

5 **IT IS SO STIPULATED:**

6 Dated: November 2, 2018

HAINES & KRIEGER, LLC

7
8
9 By: /s/ Shawn W. Miller
David H. Krieger (SBN: 9086)
Shawn W. Miller (SBN: 7825)
10 8985 S. Eastern Ave., Suite 350
11 Henderson, NV 89123
12 *Attorney for Plaintiff Jacyl Tacang*

13 Dated: November 2, 2018

DUANE MORRIS LLP

14
15 By: /s/ Holly S. Stoberski
16 Dominica C. Anderson (SBN 2988)
17 Holly S. Stoberski (SBN 5490)
18 *Attorney for Defendant U.S. Bank National*
19 *Association (sued herein as U.S. Bank Home*
20 *Mortgage)*

21 **IT IS SO ORDERED.**

22 November 5, 2018
23 DATED: _____

24 
25 _____
26 United States Magistrate Judge
27
28

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of _____
4 [print or type full address], declare under penalty of perjury that I have read in its entirety and
5 understand the Stipulated Confidentiality and Protective Order ("Stipulation & Order") that was
6 issued by the United States District Court for the District of Nevada on _____ in
7 the case of _____ **[insert formal name of the case and the**
8 **number and initials assigned to it by the court]**. I agree to comply with and to be bound by all the
9 terms of this Stipulation & Order and I understand and acknowledge that failure to so comply could
10 expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not
11 disclose in any manner any information or item that is subject to this Stipulation & Order to any
12 person or entity except in strict compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the District
14 of Nevada for the purpose of enforcing the terms of this Stipulated Confidentiality and Protective
15 Order, even if such enforcement proceedings occur after termination of this action.

16 I hereby appoint _____ [print or type full name] of
17 _____ [print or type full address and telephone number] as
18 my Nevada agent for service of process in connection with this action or any proceedings related to
19 enforcement of this Stipulation & Order.

20
21 Date: _____

22 City and State where sworn and signed: _____

23
24 Printed name: _____

25
26 Signature: _____

1 **CERTIFICATE OF SERVICE**

2 1. On November 2, 2018, I served the following document(s):

3 **STIPULATED CONFIDENTIALITY AND PROTECTIVE ORDER**

4 2. I served the above-named document by the following means to the persons listed below:

5 ☒ BY electronic transmission through the CM/EFC filing system of the United States
6 District Court, District of Nevada.

7 David H. Krieger
8 Shawn W. Miller
9 HAINES & KRIEGER, LLC
8985 S. Eastern Ave., Suite 350
Henderson, NV 89123
Attorneys for Plaintiff Jacyl D. Tacang
Email: dkrieger@hainesandkrieger.com

10 ☐ BY Mail: I am "readily familiar" with the firm's practice of collection and
11 processing correspondence for mailing and electronic service. Under that practice it
12 would be deposited with the U.S. postal service on that same day with postage
13 thereon fully prepaid at Las Vegas, Nevada, in the ordinary course of business, and
also served via electronic mail.

14 3. I declare under penalty of perjury that the foregoing is true and correct.

15 SIGNED: November 2, 2018

16 Janice R. Reeder
17 (Name of Declarant)

/s/ Janice R. Reeder
(Signature of Declarant)